

Message Text

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PAGE 01 STATE 061624

47

ORIGIN EB-07

INFO OCT-01 AF-06 ARA-06 EUR-12 EA-06 ISO-00 FMC-01 OMB-01

L-02 CIAE-00 COME-00 DODE-00 DOTE-00 INR-07 NSAE-00

CG-00 OFA-01 DLOS-03 SS-15 NSC-05 SP-02 CIEP-01 PA-01

PRS-01 USIA-06 TRSE-00 /084 R

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APPROVED BY EB/TT/MA:RKBANK

EB/TT:RJWALDMANN

EB/TA:WGBARRACLOUGH (PARA 4)

FMC:WJSMITH

EA/PHL:BAFLECK

EA/ANP:HLANGE (SUBS)

EUR/RPE:JTARRANT (DRAFT)

ARA/PAN:DPEASCHOCK (SUBS)

EA/J:DGBROWN (SUBS)

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P R 191720Z MAR 75

FM SECSTATE WASHDC

TO AMEMBASSY MANILA PRIORITY

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY COPENHAGEN

AMEMBASSY THE HAGUE

AMEMBASSY LONDON

AMEMBASSY MONROVIA

AMEMBASSY OSLO

AMEMBASSY PANAMA

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY TOKYO

AMEMBASSY STOCKHOLM

AMEMBASSY HELSINKI

AMEMBASSY ATHENS

INFO USMISSION EC BRUSSELS

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PAGE 02 STATE 061624

USMISSION OECD PARIS

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E.O. 11652: N/A

TAGS: EWWT, EEWT, ETRD, RP

SUBJECT: SHIPPING: PHILIPPINE DISCRIMINATORY MEASURES

REF: A) MANILA 3041; B) MANILA 2937; C) MANILA 2498;
STATE 48320; E) STATE A-8430, NOV. 8, 1974

1. SUMMARY. GOP DECREE 667 MAY RESULT IN SECTION 19 ACTION BY U.S. FEDERAL MARITIME COMMISSION (FMC), AND ACTION BY USG PURSUANT TO 1974 TRADE ACT. EMBASSY MANILA REQUESTED TO FOREWARN GOP OF THESE POSSIBLE ACTIONS AND SEEK WITHDRAWAL OF THE NEW GOP TAX PROVISION. END SUMMARY.

2. US SHIPPING LINES, ALREADY ANNOYED BY 2 1/2 PERCENT GOP TAX ON BILLINGS OF FOREIGN CARRIERS, HAVE HIT THE CEILING AS A RESULT OF DECREE NO. 667 REPORTED MANILA 3041 AND MANILA 2937. DEPARTMENT AND FMC RECEIVING STRONG REPRESENTATIONS FROM U.S. SHIPPING LINES TO DO SOMETHING ABOUT LATEST PHILIPPINE MEASURE. THE PRESIDENT AND SECRETARY OF THE AMERICAN INSTITUTE OF MERCHANT SHIPPING (AIMS) CALLED UPON DEPARTMENT'S DIRECTOR OF MARITIME AFFAIRS TO INDICATE EXTREME CONCERN OF AIMS' MEMBERSHIP WITH PHILIPPINE DECREE.

3. THE DEPARTMENT HAS BEEN INFORMED THAT THE FMC SUMMONED CONCERNED U.S.-FLAG LINES TO MEETING MAR. 19 TO FURTHER OBTAIN THEIR VIEWS. WHILE IT IS NOT CERTAIN, FMC, AS A RESULT OF THIS MEETING AND PROTESTS BY SEVERAL U.S. LINES, MAY HAVE TO CONSIDER ACTION UNDER SECTION 19 OF U.S. MERCHANT MARINE ACT OF 1920. THIS ACT AUTHORIZES FMC TO TAKE ACTION ALONG THE LINES DETAILED IN SECTIONS 506.8 AND 506.9 OF
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PAGE 03 STATE 061624

GENERAL ORDER 33 ENCLOSED WITH STATE A-8430, NOV. 8 1974. (THE FACT THAT GENERAL ORDER 33 IS NOT YET IN EFFECT DOES NOT PREVENT FMC FROM TAKING SUCH ACTION UNDER THE 1920 ACT). PHILIPPINE FLAG PARTICIPATION IN OUR BILATERAL TRADE IS SMALL, AND GOP OFFICIALS MAY THEREFORE SCOFF AT IMPACT OF RETALIATORY ACTION BY U.S. FMC VIS-A-VIS PHILIPPINE FLAG FLEET. GOP SHOULD REALIZE, HOWEVER, THAT WERE

DECREE 667 TO RESULT IN EXPANSION OF PHILIPPINE
FLAG SERVICE TO THE U.S., ITS EFFECTIVENESS COULD
BE GREATLY DIMINISHED BY POSSIBLE FMC ACTION.

4. GOP DECREE 667 MAY ALSO MAKE PHILIPPINES SUBJECT
TO PROVISIONS OF SECTION 301(A) OF U.S. 1974 TRADE
ACT WHICH STATES, "WHENEVER THE PRESIDENT DETERMINES
THAT A FOREIGN COUNTRY...ENGAGES IN DISCRIMINATORY OR
OTHER ACTS WHICH ARE UNJUSTIFIABLE OR UNREASONABLE
AND WHICH BURDEN, RESTRICT, OR DISCRIMINATE AGAINST
U.S. COMMERCE,...THE PRESIDENT SHALL TAKE ALL
APPROPRIATE AND FEASIBLE STEPS WITHIN HIS POWER TO
OBTAIN THE ELIMINATION OF SUCH RESTRICTIONS..." AND
STATES, FURTHER "FOR THE PURPOSES OF THIS SUBSECTION,
THE TERM "COMMERCE" INCLUDES SERVICES ASSOCIATED WITH
THE INTERNATIONAL TRADE".

5. DEPARTMENT HOPES ISSUE CAN BE RESOLVED WITHOUT
RESORT TO RETALIATORY MEASURES AND BELIEVES OUR
EFFORTS TO GAIN RESCISSION OF THIS ACTION MIGHT BE
HELPED IF GOP BECAME AWARE THAT THE PROBLEM IS NOT
EXCLUSIVELY A BILATERAL ONE WITH THE U.S. HOWEVER,
WE DO NOT WISH TO WAIT FOR A COORDINATED APPROACH,
WHICH MIGHT ALSO HAVE THE DISADVANTAGE OF MAKING
THE GOP FEEL IT WAS BEING GANGED-UP-ON.

6. FOR MANILA: EMBASSY, DRAWING UPON ABOVE, SHOULD
INFORM GOP AT HIGHEST APPROPRIATE LEVEL OF USG
CONCERN OVER THIS NEW DISCRIMINATORY MEASURE; SHOULD
ADVISE GOP THAT DEPARTMENT AND FMC UNDER HEAVY
PRESSURE TO TAKE RETALIATORY ACTION UNDER U.S. LAWS
CITED ABOVE; AND SHOULD INFORM GOP OF USG DESIRE TO
RESOLVE PROBLEM WITHOUT RESORTING TO RETALIATION.
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PAGE 04 STATE 061624

EMBASSY MAY NOTE TO GOP THAT DECREE 667 FURTHER
COMPLICATES U.S. TONNAGE TAX ISSUE RAISED IN STATE 48320.
EMBASSY ALSO REQUESTED TO ADVISE DEPT. ON PROSPECTS FOR
AND LIKELY EFFECTIVENESS OF REPRESENTATIONS BY OTHER
GOVERNMENTS.

7. FOR MANILA: RE PARA 4 MANILA 2937, EMBASSY CORRECT
IN DISCOURAGING BILATERAL U.S./PHILIPPINE APPROACH
AS INCONSISTENT WITH U.S. POLICY AND SHOULD CONTINUE
TO DO SO. (NOTE ALSO THAT U.S. AGREEMENTS WITH
OVER 30 OTHER NATIONS PROVIDE FOR EITHER NATIONAL
OR MOST FAVORED NATION TREATMENT ON SHIPPING).

8. FOR MANILA; IN ORDER TO MORE ACCURATELY GAUGE THE
USG RESPONSE, DETAILED INFORMATION IS NEEDED ON EXTENT

OF PHILIPPINE-FLAG SHIPPING TO U.S. AND TO OTHER
FOREIGN PORTS; CARRIAGE BY U.S.-FLAGS AND 3RD FLAGS;
AND AN INDICATION OF THE PROSPECTS FOR THE INCREASE OF
PHILIPPINE-FLAG PARTICIPATION IF DECREE 667 TAKES
EFFECT.

9. FOR OTHER ACTION ADDRESSEES: REFTELS A AND B
BEING REPEATED FOR YOUR BACKGROUND. YOU SHOULD
DISCUSS PROBLEM WITH APPROPRIATE HOST GOVERNMENT
AUTHORITIES, ASCERTAIN THEIR VIEWS, AND DETERMINE
WHAT ACTION THEY MAY BE INCLINED TO TAKE VIS-A-
VIS THE GOP. INGERSOLL

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